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Viewpoint: Inquiry must not hold up devolution

22 November 2006

As if he did not have enough on his political plate, Peter Hain also has to cope with an inquiry by the Attorney General into whether there was an attempt by the Northern Ireland Office to mislead the High Court on the appointment of the interim victims' commissioner. The sooner this important matter is dealt with, the clearer will be the air for the next crucial stages in the peace process.

Lord Goldsmith wasted no time ordering the inquiry requested by Mr Justice Girvan, as any suggestion that the Secretary of State might himself make the decision would have been ridiculed. No fewer than 67 questions have been listed by the judge, concentrating on a letter replying to a question from a west Belfast widow, Brenda Downes, about the appointments process.

In the opinion of the judge, the letter, dated January 6, and the evidence in an affidavit to the court by Nigel Hamilton, the head of the NI civil service, "had the tendency to mislead". The question was "whether there was a deliberate attempt to mislead and, if so, by whom".

Already Mr Justice Girvan has found that Mr Hain was motivated by an improper political purpose when he appointed Bertha McDougall. The judge decided that the proper procedure had not been followed and that she was appointed as a confidence-building gesture to the Democratic Unionist Party, which nominated her.

In a further statement, the judge said it was now accepted that the letter sent to Mrs Downes had wrongly created the impression that Mrs McDougall had been appointed as the best candidate. There had been "inadequacies and errors" in the letter, and nothing had been done to correct the false impression until the court had directly intervened.

Mr Justice Girvan's comments could hardly be more critical of both the Secretary of State and senior civil servants whose duty was to make the appointment according to strict rules and, if challenged, to provide factual answers. Few will disagree with the judge that if incorrect and misleading information was deliberately given to put the applicant, Mrs Downes, on a false trail, such conduct "would appear to fall within the concept of perverting the course of justice".

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Mr Hain has denied any wrongdoing, although he would have overseen the entire process, and clearly he is facing serious accusations. While no one is questioning the ability of Mrs McDougall or the valuable work she has done, she has inadvertently become involved in a legal battle that should have been foreseen by a less politically-motivated Secretary of State. With efforts to restore devolution on a knife-edge, the inquiry must produce its conclusions, either way, in double quick time.

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